



Policy Manual

Manual:	CP&P	Child Protection and Permanency	Effective Date:
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Chapter:	D	KLG	Revised Date:
Subchapter:	2	KLG	10-04-2021
Issuance:	300	KLG Assessment and KLG Court Order	

Purpose:

This issuance establishes policy and procedure related to Division actions once a recommendation for KLG as the permanent plan has been made by CP&P, and on handling requests for changes to the KLG court order.

Authority:

- N.J.S.A. 3B:12A-1-6, Kinship Legal Guardianship Act
- N.J.S.A. 30:4C-84-89 et seq.

Policy:

A) Fifth and 10th Month Placement Reviews and KLG Decision

- 1) The approval of the Area Director is required before the KLG decision can be made for a child placed with a non-kin caregiver or if the child is Legally Free. This high level of approval is required to assure that:
 - i. Reunification has been ruled out, or;
 1. The home is either licensed or can be licensed as a resource home; and
 2. The level of relationship was properly assessed.
- 2) Seek the Area Director's approval -- as soon as the decision is made that KLG is the recommended permanency plan. Request the Area Director's

approval using the Interoffice Memorandum. The Area Director must sign the memorandum documenting his or her approval.

- 3) 10th Month Review -CP&P staff, in coordination with the child's family, determine that KLG is an appropriate permanent plan for the child, a two-step process occurs:
 - i. Step One - The Casework Supervisor conducts a family discussion attended by the Worker, his or her Supervisor, parents, child (depending on the age and appropriateness), kin caregiver, and any other interested parties (as appropriate). At this Family Engagement/Family Team Meeting, the case is reviewed in its entirety, to assure again that:
 1. Reunification is not likely.
 2. Full disclosure regarding adoption and KLG has been provided to the kin caregiver.
 - ii. All parties will complete [CP&P Form 4-5c](#), post KLG visitation plan.
 - iii. Step Two – Before the 10th month The Area Concurrent Planning Specialist arranges and conducts a litigation conference:
 1. The Area Concurrent Planning Specialist, Casework Supervisor, Supervisor, Worker, DAG assigned to the case, and others, as appropriate, meet to confirm the agency's recommended permanency goal is KLG, in preparation for the permanency hearing held at the 12th month of placement.
- 4) All reviews must be thoroughly documented on a contact activity note in NJS. See [CP&P-IV-D-2-200](#), **Case Plan Documentation**. When KLG is Child's Permanency Placement and other documentation.

B) Permanency Hearing Held at 12th Month of Placement

- 1) The purpose of the 12th month permanency hearing is to determine the child's permanency plan. If the court approves KLG as the permanency plan, the court also makes a specific finding of the reasonable efforts made by the Division, and the appropriateness of the reasonable efforts to achieve the permanency plan. See [CP&P-IV-A-3-100](#), Permanency Hearing Requirements, [CP&P-III-B-2-100](#), Permanency Hearings, [CP&P-IV-D-2-200](#).

C) KLG Complaint Filed After Permanency Hearing

- 1) If KLG is the permanency plan set at the permanency hearing, the Litigation Unit files a complaint for Kinship Legal Guardianship with KLG Assessment, [Form 4-5](#) with Attachments

D) No KLG Order by 15th Month of Placement

- 1) If kinship legal guardianship is not granted by the 15th month of placement, an exception to the filing for TPR must be documented (N.J.S.A. 30:4C-15.3).

E) Contents of Kinship Legal Guardianship Assessment

- 1) When a child has been placed by CP&P, CP&P conducts the KLG assessment to support the plan for KLG, and attaches it to the legal notice filed for KLG. The KLG assessment is documented in NJS on the CP&P [Form 4-5](#), Kinship Legal Guardianship Assessment, CP&P [Form 4-5a](#), Certification of Completed Background Checks for Kinship Legal Guardianship, and CP&P [Form 4-5c](#), Kinship Legal Guardianship Visitation Agreement. The KLG assessment must include:
 - i. Identifying information on the child, biological parents, kin caregiver, and all others in the home of the kin caregiver.
 - ii. The reasons for placement, including the parent's incapacity to care for the child at present and in the future.
 - iii. A description of the child's current involvement with CP&P, including how the Division exercised reasonable efforts to reunify the child with the birth parents and how these efforts were unsuccessful or unnecessary.
 - iv. The circumstances of the kinship relationship, including, but not limited to:
 1. The ability, and suitability of the kin caregiver and family to provide a safe and permanent home for the child; and
 2. The attachment between this child and the kin caregiver, and the strength of the commitment of this kin caregiver and his or her family to care for the child permanently.
 - v. The child's adjustment in the home, including, but not limited to:
 1. The child's growth, development, and special needs, and how they are being met;
 2. His or her relationship with other family and household members;
 3. School adjustment and progress; and
 4. The child's level of attachment to the prospective KLG caregiver. If the child is 14 years of age or older, document that a discussion was held with the child about the KLG arrangement and his or her feelings about the KLG arrangement.
- 2) On non-contested KLG cases, conduct a family meeting with KLG caregivers and biological parents to reach a visitation agreement.

Document that agreement on DCPD [Form 4-5c](#), Kinship Legal Guardianship Visitation Agreement.

- i. If the child is part of a sibling group, why the child cannot be placed with siblings.
 - ii. Any visitation by the child's family of origin, especially visits or contacts between siblings, if they cannot be placed together.
 - iii. The wishes of the child, if appropriate, and of the birth parents, if known.
 - iv. The child's property and assets, if known.
 - v. Certification from the kin caregiver that he or she has been providing care and support for the child while the child has been residing in the kin caregiver's home for, at least the last six (6) consecutive months or (9) nine of the last 15 months, six (6) of which of which have been licensed.
 - vi. Certifications for the kin caregiver and all other adult members of the household regarding:
 - vii. Criminal history background information checks (CHRI);
 - viii. Domestic violence central registry checks; and
 - ix. Child abuse and neglect record information (CARI) checks, including inquiries to other states, if the kin caregiver or household member resided in another state within the past five (5) years.
 - x. Note: CARI and CHRI checks must be completed within ninety (90) days prior to the KLG court order being awarded. Fingerprint results from a fingerprint-based criminal record inquiry for the prospective kinship legal guardian and all adult household members must be current, within one year of the date of the KLG court order. Preference is for archiving so the family does not have to take new prints, but if this cannot be accomplished, new prints must be taken.
- 3) The results of a record review, including:
- i. NJ SPIRIT search to locate records of clients (both children and adults), perpetrators, and vendors;
 - ii. ALFX (alphabetic listing of all County Welfare Agency and CP&P cases); and
 - iii. Companion case records.
- 4) The results of the kin caregiver's home review:
- i. For placements made after July 1, 2005, the date the home was licensed;

- ii. Verification of the names and ages of the child, kin caregiver, and all other household members and their relationships to each other;
- iii. Verification of the child's assets and property; and
- iv. The kin caregiver's income for Federal reporting requirements.
- v. All information in the case record is taken into consideration in determining the ability of the kin caregiver to care for the child.
- vi. See N.J.S.A. 3B:12A-1-6, Kinship Legal Guardianship Act, [CP&P-IV-D-2-200](#).

F) Waiver and Criminal Convictions

- 1) See [CP&P-IV-B-2-300](#), Waiver Request, for policy regarding crimes that disqualify kin from KLG consideration, waivers for criminal convictions and child abuse or neglect substantiations, and the waiver approval authority. To request a waiver, the Worker prepares CP&P [Form 17-1](#), Waiver Request. A waiver is not needed for an arrest without a conviction or CP&P history without substantiation.

G) If the KLG Caregiver Later Wants to Adopt

- 1) CP&P can help the KLG caregiver adopt the child when:
 - i. The child was legally free prior to the KLG order.
 - ii. The child was not legally free prior to the award of kinship legal guardianship, but all parents are now willing to sign a surrender of parental rights (it is the KLG caregiver's responsibility to contact the parents to determine this), or the parent is deceased
 - iii. A child remains subsidy eligible because he or she has not completed high school, but is 18 years old and can consent to his or her own adoption.
- 2) For open cases (when a sibling is an active case):
 - i. When the LO Worker receives a request, he or she gathers information, makes a referral to the State Central Registry (SCR), and advises the KLG Coordinator; or
 - ii. When the KLG Coordinator in the Office of Adoption Operations receives a request, he or she gathers the information and, if appropriate, makes a referral to SCR.
- 3) SCR documents the call as a child welfare service referral and assigns it back to the Worker assigned to the sibling's case.
- 4) When there is not an open CP&P case, a case will be opened in NJS, and assigned to a Local Office based on the KLG caregiver's county of residence. The office processes the request for assistance with the adoption.

- 5) If the KLG caregiver and the child now reside out of state, the case is assigned to the Local Office that handled the KLG litigation.
 - i. Other Situations - The KLG caregiver can consult an attorney regarding a private adoption.

H) Motion to Vacate KLG Order

- 1) A KLG caregiver or birth parent may request that a KLG court order be vacated.
- 2) Upon receipt of a referral, SCR accepts and assigns it to the Local Office :
 - i. The court may order an assessment regarding the KLG caregiver's or parent's request; or
 - ii. CP&P) may wish to take a position on the KLG caregiver's or parent's motion to vacate the KLG order.
- 3) Decision Making - The decision to take a position on the motion to vacate a KLG order is made on a case-by-case basis. CP&P can decide to take no position, oppose the motion, or support the motion. The following factors may assist in making a determination on whether to support the motion, including but not limited to
 - i. Nature of the original risk of harm to the child.
 - ii. Parent action to ameliorate the reason(s) for the child's placement and the parent's current fitness to care for the child.
 - iii. Any subsequent allegations of abuse or neglect received by the Division and their findings.
 - iv. Age of the child at present.
 - v. When KLG was granted.
 - vi. Duration of CP&P involvement prior to the granting of KLG.
 - vii. Total length of time the child has been in out-of-home placement.
 - viii. Length of time the child was in placement in the KLG kin caregiver's home prior to, and after, KLG was granted.
 - ix. Proposed plan for the child (i.e., Where will the child reside? Who will reside in the home?)
- 4) Processing the Decision - If CP&P decides to take a position:
 - i. If the proposed plan is return to the parent from whom the child was removed:
 1. The CP&P Worker contacts the appropriate DAG, who evaluates whether the parent has provided, at a minimum, some "convincing" evidence to show that his or her incapacity or inability to care for the child no longer applies (i.e., there is a prima facie showing that meets the parent's

burden of providing “clear and convincing” evidence)
N.J.S.A. 3B:12A-6(f).

- 5) If the parent cannot show clear and convincing evidence, the DAG asks the court to not grant a hearing and to dismiss the motion. If the court agrees, no further action is taken by CP&P.
 - i. If the court denies the DAG request to dismiss the motion and not grant a hearing, or CP&P believes there is enough “convincing” evidence presented by the parent (i.e., prima facie showing), worker makes a referral to SCR, for assignment to the Local Office.
- 6) The assigned Worker determines whether the reasons that supported the original KLG court order (the parent was unfit and not likely to become fit in the foreseeable future) have improved sufficiently, the child is no longer at risk, and what would be in the best interest of the child:
 - i. A review of the case record may contain sufficient evidence to oppose the motion to vacate the order.
 - ii. A CHRI check (PROMIS/GAVEL) may reveal a new (previously unknown to CP&P) criminal conviction, particularly of an ASFA crime or a crime against a child, or a CARI check may reveal a substantiated incident regarding a different child.
 - iii. If a review of the case record and/or the results of the CARI/CHRI checks do not contain sufficient evidence to oppose the motion, conduct a home visit to the birth parent’s home. If appropriate, obtain evaluations to assist in decision making (e.g., psychological assessment, substance use assessment).
 - iv. If the Division elects to support the motion to vacate the order and permit the child to be returned to the birth parent, obtain evidence from the field assessment to support the decision.
- 7) If the proposed plan is placement with an identified alternate kin:
 - i. The KLG and subsidy provided by CP&P cannot be transferred - A court order granting KLG to a specific kin caregiver cannot be transferred to another identified alternate kin.
 - ii. If the court vacates the KLG order and there are no protective service concerns, the court can, with appropriate notification to the birth parent(s), award custody to the identified alternate kin who can apply for KLG through the Kinship Navigator Program, after the child has been in the home for a year. See [CP&P-IV-D-2-200](#).
 - iii. If the court vacates the original KLG order and the Division places the child, the Division must give notice to the birth parents and reopen litigation, taking custody of the child.

- iv. Follow the procedures below to determine what position CP&P takes on the caregiver's motion to vacate the order and have the child placed with an identified alternate kin.
 - v. The KLG Coordinator or former Local Office Worker refers the call to SCR. SCR assigns the child welfare service referral for assessment by the Local Office. The Local Office conducts an NJS record review to determine if the alternate kin is known to CP&P.
- 8) If there are no concerns about an alternate kin known to CP&P, a decision can be made that a "paper review" is sufficient for CP&P to take a position on the KLG caregiver's motion to vacate the KLG court order and permit the child to reside with the alternative kin.
 - 9) If the identified alternate kin was convicted of an ASFA disqualifying crime, the motion to place the child with him or her is not supported.
 - 10) If there are child welfare or protective service concerns with an alternate kin known to CP&P, a field assessment is required.
 - 11) If the child will reside or resides with an unknown alternate kin, a field visit is made to assess the child's care and safety.
 - 12) If it is ultimately determined that the child will continue to reside with the original KLG caregiver, no field assessment is required and the CP&P case is closed.
 - i. Another factor the Local Office considers in determining whether to support or oppose the KLG caregiver's motion to vacate the KLG order is that KLG cannot be granted to the identified alternative kin until the child resides in his or her home for at least the last six (6) consecutive months or nine (9) of last 15 months and that their home must be licensed for six (6) of those months.

I) Office of Supervision

- 1) When KLG has been granted, and the CP&P case is closed, with only a subsidy being provided by CP&P, the office of supervision is the KLG Unit in the Office of Adoptions Operations. See "Processing Required for the CP&P KLG Subsidy Program" in [CP&P-IV-D-2-200](#), CP&P KLG Subsidy Program.
- 2) If SCR accepts a protective service report or a child welfare referral, the Local Office assigned the case is determined by the address of the KLG caregiver, or, if the caregiver is deceased, the address where the child is currently located.

J) Safe Measures Report Available on KLG Finalizations

The Safe Measures report, "KLG Finalizations," which identifies all children whose KLG was finalized during the selected quarter, is found under the "Measuring Improvement in Case Practice" category in the NJS application.

K) Relevant NJS Forms and Windows

- 1) CP&P [Form 4-5](#), Kinship Legal Guardianship Assessment
- 2) CP&P [Form 4-5a](#), Certification of Completed Background Checks for Kinship Legal Guardianship
- 3) CP&P [Form 4-5c](#) Kinship Legal Guardianship Visitation Agreement
- 4) CP&P [Form 17-1](#), Waiver Request
- 5) Complaint for Kinship Legal Guardianship with Attachment
- 6) Court/Legal Window
- 7) Legal Documentation Window
- 8) Legal Action Window
- 9) Legal Status Window
- 10) License Window

Forms and Attachments:

- CP&P [Form 4-6](#), Domestic Violence Central Registry Check Form
- CP&P [Form 4-17](#), KLG Folder Requirement Checklist

Policy History:

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